

UNITED STATES OF AMERICA,) CASE NUMBER
) 2:11-CR-10(1)
PLAINTIFF,)
VS.) COLUMBUS, OHIO
) OCTOBER 26, 2011
)
SEAN D. MURPHY,)
)
DEFENDANT.)
_____)

APPEARANCES OF COUNSEL:

FOR THE UNITED STATES: SALVADOR DOMINGUEZ, AUSA
HEATHER HILL, AUSA

FOR THE DEFENDANT: SEAN MURPHY, PRO SE
DAVID GRAEFF, STAND-BY COUNSEL

GEORGINA L. WELLS, OFFICIAL FEDERAL COURT REPORTER
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I-N-D-E-X

VOLUME 7 - OCTOBER 26, 2011

JURY QUESTION	Page 3
JURY QUESTION	Page 4
JURY QUESTION	Page 5
JURY QUESTION	Page 6
JURY QUESTION	Page 6
JURY VERDICT	Page 7

- - -

Wednesday Morning Session

October 26, 2011

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THEREUPON, there was a written question at 9:30 a.m. given to the Court and following discussion out of the hearing and presence of the jury with Court and counsel, the written response was given to the jury as follows:

THE COURT: The Court was presented with the following question by the jury:

"Could we please have an explanation as to the differences between Count 2 and Count 3?" Signed "Jerry S".

And the answer, after discussion with all counsel present is:

"Count 2 of the Indictment charges that the defendant caused David Nassor to travel in interstate commerce for an unlawful purpose, during the time frame alleged."

"Count 3 of the Indictment charges that the defendant, Sean Murphy, Robert Doucette and Joseph Morgan traveled in interstate commerce for an unlawful purpose, on the date alleged."

Signed: "George C. Smith, U.S.D.J."

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THEREUPON, there was a written question at 10:30 a.m. given to the Court and following discussion out of the hearing and presence of the jury with Court and counsel, the written

1 response was given to the jury as follows:

2 THE COURT: Here is the question:

3 "Court 2 of the Indictment charges that the defendant
4 caused David Nassor to travel in interstate commerce for an
5 unlawful purpose during the time frame alleged.

6 Both the Memphis trip and the Columbus, Ohio Brink's
7 scouting trip?"

8 "Count 3 of the Indictment charges that the
9 defendant, Sean Murphy, Robert Doucette and Joseph Morgan
10 traveled in interstate commerce for an unlawful purpose on the
11 date alleged.

12 Does this include the trip from:

13 Pre-Crime:

14 NH to PA (storage)

15 PA to OH (Columbus Brink's)

16 Post-Crime:

17 OH to PA?

18 PA to Lynn?

19 Any other activities? Please list."

20 The response from the Court will be:

21 "Count 2 of the Indictment charges that the defendant
22 caused David Nassor to travel in interstate commerce in January
23 of 2009 for the Brink's scouting trip, for an unlawful purpose.

24 The Memphis trip occurred on or about December 1 of
25 2008."

1 "Count 3 of the Indictment charges that the
2 defendant, Sean Murphy, Robert Doucette and Joseph Morgan
3 traveled in interstate commerce, on or about January 16 of
4 2009, including the trip from the State of Massachusetts to the
5 Southern District of Ohio and any point in between, for an
6 unlawful purpose."

7 Signed: "George C. Smith, U.S.D.J".

8 - - -

9 THEREUPON, there was a written question at 11:30 a.m.
10 given to the Court and following discussion out of the hearing
11 and presence of the jury with Court and counsel, the written
12 response was given to the jury as follows:

13 THE COURT: The next question is: "The plea
14 agreement for Robert D. What exhibit was that?"

15 And our written response is:

16 "Robert Doucette testified regarding language
17 contained in his plea agreement.

18 The plea agreement of Robert Doucette was not offered
19 into evidence.

20 I remind you to use your collective memory."

21 Signed: "George C. Smith, U.S.D.J."

22 - - -

23 THEREUPON, there was a written question at 12:00 p.m.
24 given to the Court and following discussion out of the hearing
25 and presence of the jury with Court and counsel, the written

1 response was given to the jury as follows:

2 THE COURT: And then the next question is:

3 "We are referring to the plea agreement that Sal
4 showed as part of his rebuttal to Sean Murphy's
5 cross-examination of Robert Doucette. It was shown on the
6 overhead. Would this not be an exhibit?" That was the
7 question asked.

8 And our written response is:

9 "Not all documents and/or exhibits that are testified
10 about and displayed have been sent back to the jury room with
11 you. For example, you were able to examine the coin boxes from
12 Brink's, but these were not introduced as exhibits and sent
13 back to the jury room.

14 Is there a specific portion of Mr. Doucette's plea
15 agreement that you have a question about?"

16 Signed: "George C. Smith, U.S.D.J."

17 - - -

18 THEREUPON, there was a written question at 1:30 p.m.
19 given to the Court and following discussion out of the hearing
20 and presence of the jury with Court and counsel, the written
21 response was given to the jury as follows:

22 THE COURT: The question was:

23 "The plea agreement was not in evidence. What was
24 the date -- and the word 'prepared' and 'signed' with equal
25 signs and then a blank line."

1 The response is: "The plea agreement is not in
2 evidence. The plea was formally signed on March 17th of 2011.
3 It was filed with the court on March 25, 2011."

4 Signed: "George C. Smith, U.S.D.J."

5 - - -

6 THEREUPON, at 2:30 p.m., the jury indicating that
7 they had arrived at a verdict, the following proceedings took
8 place in open court with Court and counsel and Mr. Murphy:

9 THE COURT: Good afternoon. It is my understanding
10 that the jury has reached a verdict; is that correct?

11 THE JURY: That's correct.

12 THE COURT: And who has the verdict forms?

13 THE JUROR: I do.

14 THE COURT: Would you give those to Mrs. Wright?

15 Mr. Murphy, please stand.

16 "We, the members of the jury" -- "United States of
17 America, plaintiff, v. Sean D. Murphy, defendant:

18 We, the members of the jury, unanimously find the
19 defendant, Sean D. Murphy, on Count 1, guilty.

20 On Count 2, guilty.

21 On Count 3, guilty.

22 And on Count 4, guilty."

23 Mr. Murphy or Mr. Graeff, do you wish to have me poll
24 the jurors?

25 MR. GRAEFF: With respect to Count 4, we would ask

1 that the jurors be polled, Your Honor.

2 THE COURT: With respect to Count 4, which is 18
3 United States Code, Sections 2314 and 2, we will begin with
4 Juror 77; is this your verdict form?

5 THE JUROR: Yes.

6 THE COURT: Juror 79; is this your verdict form?

7 THE JUROR: Yes.

8 THE COURT: Juror Number 86; is this your verdict
9 form?

10 THE JUROR: Yes.

11 THE COURT: Juror Number 93; is this your verdict
12 form?

13 THE JUROR: Yes.

14 THE COURT: Juror Number 101; is this your verdict?

15 THE JUROR: Yes.

16 THE COURT: Juror Number 105; is this your verdict?

17 THE JUROR: Yes.

18 THE COURT: Juror Number 107; is this your verdict?

19 THE JUROR: Yes.

20 THE COURT: Juror Number 117; is this your verdict?

21 THE JUROR: Yes.

22 THE COURT: Juror Number 125; is this your verdict?

23 THE JUROR: Yes.

24 THE COURT: Juror Number 126; is this your verdict?

25 THE JUROR: Yes.

1 THE COURT: Juror Number 127; is this your verdict?

2 THE JUROR: Yes.

3 THE COURT: Juror Number 128; is this your verdict?

4 THE JUROR: Yes.

5 THE COURT: That completes the poll of the jury,
6 Jurors 1 through 12. The alternates were excused before the
7 deliberations.

8 Ladies and gentlemen, I want to thank you for your
9 jury service during these last few weeks. And you have had an
10 opportunity to see how important it is for people such as
11 yourselves to interrupt your daily lives and serve as jurors.
12 It is a constitutional right to have -- anyone charged with a
13 crime -- to have a jury, and we really do appreciate your
14 service. And, actually, we could not function without you.

15 So, please accept the thanks of the members of the
16 United States District Court for the Southern District of Ohio,
17 my own personal thanks and the thanks of my staff, as well as
18 others concerned.

19 You are now excused from any further jury service
20 under this summons. You have no further obligation under this
21 summons. And please stop in and see Mrs. Green before you
22 leave to make sure that you are free to go, or if there is
23 anything that she has for you to sign or do. And I imagine
24 that will be very quick.

25 Now, you are no longer bound by the admonition that I

1 have previously imposed upon you. You are free to discuss the
2 case, if you choose to do so, and don't feel that you are
3 obligated to do so in any way to anyone. But if you would like
4 to speak with the lawyers afterwards or any member of the
5 Court's staff, you may do so. And if not, you are perfectly
6 free to go. Again, thank you for your service. You are
7 excused.

8 COURTROOM DEPUTY CLERK: Ladies and gentlemen of the
9 jury, please rise.

10 - - -

11 THEREUPON, the jury was discharged, and the following
12 proceedings were held in open court with the Court and counsel
13 and Mr. Murphy:

14 THE COURT: Mr. Graeff, your client -- of course, the
15 Court is going to order a Presentence Report. And there will
16 be an investigation into your background, Mr. Murphy, and you
17 will have an opportunity to meet with the Probation Officer
18 conducting the investigation to give any background that you
19 wish to give in furtherance of that report.

20 You will have an opportunity to file any objections
21 that you may have to the presentation of the Presentence Report
22 and an attempt to work those out prior to sentencing.

23 Is there anything additional that we need to address
24 today?

25 MR. DOMINGUEZ: Not from the government, Your Honor.

1 MR. GRAEFF: No, sir.

2 THE COURT: The defendant will remain in custody
3 pending sentencing, and we are adjourned.

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C E R T I F I C A T E

United States of America

Southern District of Ohio

I, Georgina L. Wells, Official Court Reporter of the
United States District Court for the Southern District of Ohio,
do hereby certify that the foregoing 11 pages constitute a true
and correct transcription of my stenographic notes taken of the
said requested proceedings, held in the City of Columbus, Ohio,
in the matter therein stated beginning on October 26th, 2011.

In testimony whereof, I hereunto set my hand on the
23rd day of March, 2012.

/s/Georgina L. Wells

Georgina L. Wells, RMR
Official Court Reporter
Southern District of Ohio